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DEPARTMENT OF LABOR

Notice of Initial Determination Revising the List of Products Requiring Federal Contractor Certification as to Forced/Indentured Child Labor Pursuant to Executive Order 13126

AGENCY: Bureau of International Labor Affairs (ILAB), Department of Labor.

ACTION: Request for comments.

SUMMARY: This initial determination proposes to revise the list required by Executive Order No. 13126 (“Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor”) in accordance with the Department of Labor’s “Procedural Guidelines for the Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor.” Under the procurement regulations implementing this Executive Order, federal contractors who supply products on the list published by the Department of Labor must certify that they have made a good faith effort to determine whether forced or indentured child labor was used to produce the products listed. This notice proposes to add 6 new line items to the list (dried fish from Bangladesh, gold from the Democratic Republic of Congo, Wolframite from the Democratic Republic of Congo, cattle from South Sudan, garments from Vietnam and fish from Ghana) that the Department of Labor preliminarily believes might have been mined, produced or manufactured by forced or indentured child labor. The Department of Labor invites public comment on this initial determination. The Department will consider all public comments

prior to publishing a final determination revising the list of products, made in consultation and cooperation with the Department of State and the Department of Homeland Security.

DATES: Information should be submitted to the Office of Child Labor, Forced Labor and Human Trafficking (OCFT) via one of the methods described below by 5 p.m., November 27, 2012.

To Submit Information, or For Further Information, Contact:

Information submitted to the Department should be submitted directly to OCFT, Bureau of International Labor Affairs, U.S. Department of Labor at (202) 693-4843 (this is not a toll free number). Comments, identified as “Docket No. DOL-2012-0005,” may be submitted by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. The portal includes instructions for submitting comments. Parties submitting responses electronically are encouraged not to submit paper copies.

Facsimile (fax): OCFT at 202-693-4830.

Mail, Express Delivery, Hand Delivery, and Messenger

Service (2 copies): Rachel Rigby/Charita Castro at U.S. Department of Labor, OCFT, Bureau of International Labor Affairs, 200 Constitution Avenue, NW., Room S-5317, Washington, DC 20210.

E-mail: EO13126@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Information Sought

The Department is requesting public comment on the revisions to the List proposed below, as well as any other issue related to the fair and effective implementation of Executive Order (EO) 13126. This notice is a general solicitation of comments from the public. All submitted comments will be made a part of the public record and will be available for inspection on <http://www.regulations.gov>.

In conducting research for this initial determination, the Department considered a wide variety of materials based on its own research or originating from other U.S. Government agencies, foreign governments, international organizations, non-governmental organizations (NGOs), U.S. Government-funded technical assistance and field research projects, academic and other independent research, media and other sources. The Department of State and U.S. embassies and consulates abroad also provide important information by gathering data from contacts, conducting site visits and reviewing local media sources. For this initial determination, the Department also sought additional information from the public through a call for information published in the Federal Register on February 16, 2012.

In developing the revised List, the Department's review focused on information concerning the use of forced or indentured child labor that was available from the above sources. A lack of information does not, by itself, establish that forced or indentured child labor is not being used in

a particular country or for a particular product. The Department's ability to gather relevant information is constrained by available resources and information about working conditions in some countries is difficult or impossible to obtain, for a variety of reasons. For example, some governments are unable or unwilling to cooperate with international efforts or with the efforts of NGOs to uncover and address labor exploitation such as forced or indentured child labor. Institutions or organizations that might uncover such information, such as independent news media, trade unions and NGOs may not exist or may not be able to operate freely.

As outlined in the Procedural Guidelines, several factors were weighed in determining whether or not a product should be placed on the revised list: The nature of the information describing the use of forced or indentured child labor; the source of the information; the date of the information; the extent of corroboration of the information by other sources; whether the information involved more than an isolated incident; and whether recent and credible efforts are being made to address forced or indentured child labor in a particular country or industry.

This notice constitutes the initial determination to revise the EO 13126 list issued April 3, 2012.

Based on recent, credible and appropriately corroborated information from various sources, the Departments of Labor, State, and Homeland Security have preliminarily concluded that there is a reasonable basis to believe that the following products, identified by their countries of origin, might have been mined, produced, or manufactured by forced or indentured child labor:

Product	Country

Cattle.....	South Sudan
Dried Fish.....	Bangladesh
Fish.....	Ghana
Garments.....	Vietnam
Gold.....	Democratic Republic of Congo
Wolframite.....	Democratic Republic of Congo

The Department invites public comment on whether these products (and/or other products, regardless of whether they are mentioned in this Notice) should be included or removed from the revised List of products requiring federal contractor certification as to the use of forced or indentured child labor. To the extent possible, comments provided should address the criteria for inclusion of a product on the List contained in the Procedural Guidelines discussed above. The Department is also interested in public comments relating to whether products initially determined to be on the List are designated with appropriate specificity and whether alternative designations would better serve the purposes of EO 13126.

The documents and sources providing the preliminary basis for adding these goods and countries to the List are available on the Internet at <http://www.dol.gov/ILAB/regs/eo13126/main.htm>.

Following receipt and consideration of comments on the additions to the List set out above, the

Department of Labor, in consultation and cooperation with the Departments of State and Homeland Security, will issue a final determination in the Federal Register. The Department of Labor intends to continue to revise the List periodically to add and/or delete products as warranted by the receipt of new and credible information.

II. Background

On June 12, 1999 President Clinton signed EO 13126, which was published in the Federal Register on June 16, 1999 (64 FR 32383). EO 13126 declared that it was “the policy of the United States Government that the executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part by forced or indentured child labor.”

Pursuant to EO 13126, and following public notice and comment, the Department of Labor published in the January 18, 2001 Federal Register a list of products (the “List”), along with their respective countries of origin, that the Department, in consultation and cooperation with the Departments of State and Treasury (whose relevant responsibilities are now within the Department of Homeland Security), had a reasonable basis to believe might have been mined, produced or manufactured with forced or indentured child labor (66 FR 5353). The Department also published the “Procedural Guidelines for Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor” (Procedural Guidelines) on January 18, 2001, which provide procedures for the maintenance, review and, as appropriate, revision of the List (66 FR 5351).

The Procedural Guidelines provide that the List may be revised through consideration of submissions by individuals and on the Department's own initiative. When proposing a revision to the List, the Department of Labor must publish in the Federal Register a notice of initial determination, which includes any proposed alteration to the List. The Department will consider all public comments prior to the publication of a final determination of a revised list, which is made in consultation and cooperation with the Departments of State and Homeland Security.

On January 18, 2001, pursuant to Section 3 of the EO 13126, the Federal Acquisition Regulatory Council published a final rule to implement specific provisions of EO 13126 that requires, among other things, that federal contractors who supply products that appear on the List certify to the contracting officer that the contractor, or, in the case of an incorporated contractor, a responsible official of the contractor, has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of forced or indentured child labor. See 48 CFR Subpart 22.15.

On September 11, 2009, the Department of Labor published an initial determination in the Federal Register proposing to revise the List to include 29 products from 21 countries. The Notice requested public comments for a period of 90 days. Public comments were received and reviewed by all relevant agencies and a final determination was issued on July 20, 2010.

On December 16, 2010, The Department of Labor published an initial determination in the Federal Register proposing to revise the List to add one product to the List and remove one

product from the List. The Notice requested public comments for a period of 60 days. Public comments were received and reviewed by all relevant agencies, and a final determination was issued on May 31, 2011 that included all revisions proposed in the initial determination.

On October 4, 2011 DOL published an initial determination in the Federal Register proposing to add three products from two countries to the List. The Notice requested public comments for a period of 60 days. Public comments were received and reviewed by all relevant agencies, and a final determination was issued on April 3, 2012 that included all revisions proposed in the initial determination. With this final determination, the List is comprised of 31 products from 23 countries.

The current List and the Procedural Guidelines can be accessed on the Internet at <http://www.dol.gov/ILAB/regs/eo13126/main.htm> or can be obtained from: OCFT, Bureau of International Labor Affairs, Room S-5317, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-4843; fax (202) 693-4830.

III. Definitions

Under Section 6(c) of EO 13126:

“Forced or indentured child labor” means all work or service--

(1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) performed by any person under the age of 18 pursuant to a contract the enforcement of

which can be accomplished by process or penalties.

Signed at Washington, DC, this 17th day of September, 2012.

Carol Pier
Acting Deputy Undersecretary for International Affairs.

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